

**TOWN OF ELSMERE  
COUNCIL MEETING MINUTES  
FEBRUARY 10, 2011  
COUNCIL CHAMBERS  
6:30 p.m.**

**CALL TO ORDER:** Mayor Deborah A. Norkavage called the meeting to order at 6:30 p.m.

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

MAYOR	DEBORAH A. NORKAVAGE	PRESENT
1 <sup>ST</sup> DISTRICT	JOHN JAREMCHUK, JR.	PRESENT
2 <sup>ND</sup> DISTRICT	STEVEN BURG	PRESENT
3 <sup>RD</sup> DISTRICT	THOMAS S. NOVAK, JR.	PRESENT
4 <sup>TH</sup> DISTRICT	CHARLES MCKEWEN	PRESENT
5 <sup>TH</sup> DISTRICT	JOANN I. PERSONTI	PRESENT
6 <sup>TH</sup> DISTRICT	JOHN N. PASQUALE, JR.	PRESENT

Town Manager, John Giles – Present

Town Solicitor, Edward McNally – Present

Chief Scott McLaren – Present

**NEW BUSINESS:**

A presentation was made by Mr. Ted Ammann regarding proposed improvements to the Baltz Elementary School. Mr. Ammann stated that they are proposing an addition of approximately 100 parking spaces in the rear of the building to accommodate the current move of district administration offices, staff and visitors.

Councilwoman Personti asked Mr. Ammann to confirm that these changes were to accommodate the current move and not creating space for additional moves to occur.

Mr. Ammann stated that the administrative move is complete with the exception of 14 employees who are still working out of the previous location and while school has enough spaces for the staff that currently works there and most of the newly moved staff, it does not accommodate any visitors to the school or the administrative offices and this should lighten the burden to both.

Mayor Norkavage asked Mr. Ammann about the existing playground equipment at this location.

Mr. Ammann stated that the playground equipment that is on the site is old and dilapidated, they will be removing that equipment and supplementing it with new equipment on a different portion of the property.

Mayor Norkavage asked if this area is currently paved.

Mr. Ammann stated that it is not which is why the variance and DNREC process is necessary.

**PUBLIC COMMENT:**

None

**APPROVAL OF MINUTES:**

Mayor and Council considered the approval of the December 9, 2010 Council Meeting Minutes.

**ACTION:** A motion was made by Councilwoman Personti to approve the Minutes of the January 13, 2010 Council Meeting with no corrections. The motion was seconded by Councilman Novak.

**VOTE:**

7-0 All In Favor      Motion carried

**OLD BUSINESS:**

Mayor and Council considered for Third and Final Reading of Revised Ordinance 526.

**ACTION:** A motion was made by Councilman Burg to approve for Third and Final Reading of Revised Ordinance 526. The motion was seconded by Councilman Novak.

Councilman Burg stated that the revision that has been made will require a license for any property that is not occupied by the owner or the child or parent.

Mayor Norkavage asked if any council members had a question regarding this Ordinance.

Councilwoman Personti stated that she supports this ordinance and asked the Management Staff to look into other restrictions to limit the use of properties for multiple families in one home (without apartments).

Mayor Norkavage asked if this topic could be discussed later in the agenda as its own discussion and called for a vote on Ordinance 526.

**VOTE:**

7-0 All In Favor      Motion carried

**NEW BUSINESS:**

Mayor and Council considered for First and Second Reading of Ordinance 527.

Councilman Pasquale stated that he had a resident ask him if the Town had any regulations regarding solar equipment and he discovered that it did not. He stated that he found several ordinances in Pennsylvania and Maryland that looked pretty close to what we should be looking for and decided to propose this ordinance. He also stated that he will possibly be making a revision to this ordinance to add a requirement regarding the use of a structural engineer to determine if the building is structurally capable of holding the equipment and its weight.

**ACTION:** A motion was made by Councilman Pasquale to adopt for First and Second Reading of Revised Ordinance 526. The motion was seconded by Councilman Novak.

Councilman Burg stated that he has a concern with the fact that this ordinance is based off of out-of-state ordinances. He stated that he would like to see some ordinances from other municipalities within the state.

Councilman Pasquale state that he did look for an ordinance within the state and did not have much luck and that New Castle County had a very general not specific ordinance.

Councilman Burg stated he also has a concern regarding the fact that we are requiring residents to get a permit to install energy efficient items and we don't actually have an inspector certified to complete the inspections.

Councilman Pasquale stated that he understands the concern however safety is certainly important and that with the possibility of selling power back to the electric company and the money saved in the long run will pay off any fee they would be assessed.

**VOTE:**

7-0 All-in-Favor

Motion carried

Mayor and Council considered a request by the Town Manager for the Authorization to sign a contract with Fireworks Extravaganza for the July 4<sup>th</sup> 2011 Celebration.

Town Manager Giles stated that he is requesting this approval because the Movies in the Parks Series has expended the approved Civic Affairs Budget. Therefore an additional amount of \$5,000.00 must be approved to sign the contract for the Fireworks presentation.

Councilman Jaremchuk asked what the deadline was to sign the contract.

Town Manager Giles stated that the deadline is already passed.

Assistant Town Manager Tina Law stated that she spoke with our representative the prior week and was granted an extension to go through the Council's Approval.

Councilman Jaremchuk asked if this would be coming out of next year's funds.

Town Manager Giles stated that he is asking for a Budget Adjustment, an additional \$5,000.00 this year and the remaining \$5,000.00 next fiscal year for the second payment.

Councilwoman Personti asked what the date of the celebration was.

Town Manager Giles stated that the celebration is scheduled for July 2<sup>nd</sup> this year since July 4<sup>th</sup> Falls on a Monday.

**ACTION:** A motion was made by Councilman Jaremchuk to approve the requested budget adjustment. The motion was seconded by Councilman McKewen.

**VOTE:**

7-0 All-in-Favor

Motion carried

The Mayor and Council Considered a request to donate a decommissioned police vehicle to the Elsmere Fire Company.

Chief McLaren stated that with the two new vehicles that have been purchased they have decommissioned one of the vehicles with chronic problems. The Fire Company has previously requested to be notified when the Town is getting decommissioning a vehicle and plans to sell the vehicle and expressed interest in buying those vehicles for Fire Company use. They are prepared to make the improvements to the vehicle that are necessary and would like the Council to consider selling them the vehicle for \$1,500.00 or possible even donating the vehicle to them (which has been done by other municipalities in the past).

**ACTION:** A motion was made by Councilman Jaremchuk to approve the donation of a decommissioned police vehicle to the Elsmere Fire Company. The motion was seconded by Councilman Burg.

**VOTE:**

7-0 All-in-Favor

Motion carried

The Mayor and Council discuss concerns regarding the underground gasoline storage tank located at the Public Safety Department.

Chief McLaren stated the he and Town Manager Giles have met with representatives from DNREC and have learned that it will take \$16,765.00 to bring the tank into full compliance. To remove the tank completely it would cost \$7,080.00 and would remove the problem completely. The insurance for the tank has increased due to the age of the tank and will continue to increase because of the liability. He recommends that the Town remove the tank to save almost \$10,000.00 over the next five years in upkeep, training and insurance.

Councilman Novak stated that the Council discussed this situation several years ago and it just fell aside and definitely thinks it needs to be looked at now, before it becomes a DNREC problem and gets into the surrounding soil.

Councilman Jaremchuk asked who he received the \$7,080.00 price from and is that a current price or from several years ago.

Chief McLaren stated that it is Ferguson & McCann and that the price is a current price.

Town Manager Giles recommended if the Council is going to approve the removal they approve a budget of \$8,000.00 as a precaution because there is bound to be a small spill during the removal process.

**ACTION:** A motion was made by Councilman Jaremchuk to remove the existing gasoline tank at the Public Safety Department. The motion was seconded by Councilman Novak.

**VOTE:**

7-0 All-in-Favor

Motion carried

**ACTION:** A motion was made by Councilman Jaremchuk to create a new line item under the Capital Budget not to exceed \$8,000.00 for the removal of the underground gasoline storage tank at the Public Safety Department. The motion was seconded by Councilman Pasquale.

**VOTE:**

7-0 All-in-Favor

Motion carried

Councilman Burg suggested that the Public Safety Department look into the possibility of using a BJ's Membership.

Town Manager Giles stated that if they accept the fleet cards they will look into it but the good thing about fleet cards is you can use them at any gas station anywhere that uses that brand of card and aren't tied to one place like BJ's.

Mayor and Council discussed the results concerning the filing deadline of the 2011 bi-annual election.

Town Manager Giles announced that the following residents have filed for the below seats:

Mayor

Deborah A. Norkavage – 11 Olga Road

Richard Herold – 28 Rigdon Road

1<sup>st</sup> District

John Jaremchuk Jr. – 300 Southern Road

2<sup>nd</sup> District

Steven Burg – 108 Northern Avenue

3<sup>rd</sup> District

No Candidates Filed

4<sup>th</sup> District

No Candidates Filed

5<sup>th</sup> District

Joann I. Personti – 108 Jefferson Avenue

6<sup>th</sup> District

Edward Olga – 18 Olga Road

Town Manager Giles stated that there will be a Town Wide Election for the Office of Mayor.

Mr. Edward McNally, Town Solicitor stated that in accordance with the Town Charter should a seat on Council be vacant for any reason a special election shall be held within 60 days of the vacancy. Therefore there must be a special election after the regular election to fill the vacant positions.

Town Manager Giles stated that we would be required to continue with this election and have voting machines and representatives for each district since the office of Mayor is up for election with two candidates running, then after the election within 60 days we must have another election.

Councilman Jaremchuk asked why we can't use one voting machine for the entire Town since its only one office for election.

Town Manager Giles stated that he went on the safe side with one machine per district and that he would need to speak with the department of elections to see how many machines are actually required. In addition the newly elected council may not be seated until 7 days after the election, which would make that 7<sup>th</sup> day the day of vacancy giving the Town 60 days from that which would be until July 7<sup>th</sup> to have a special election to fill the vacant position. However, should there only be one candidate file for the special election then the special election would be cancelled and the candidates would take office.

Councilman Jaremchuk stated that the filing forms provided the incorrect address to send to the Department of Elections.

Town Manager Giles stated that the forms provided were direct downloads from the State of Delaware Department of Elections website.

The council members in attendance agreed that the error was definitely the Department of Elections mistake and that no candidate should be penalized for the filing mistake if it was due to the incorrect address.

**ACTION:** A motion was made by Councilman Novak to adopt for first and second reading Ordinance 528 regarding municipal elections. The motion was seconded by Councilman Jaremchuk.

**VOTE:**

7-0 All-in-Favor

Motion carried

**ITEMS SUBMITTED BY MAYOR AND COUNCIL:**

Councilwoman Personti would like to address properties where the homeowner occupies the home and has a second family living with them due to hard times. She has received a tip from one resident that in the middle of the night a family has moved in with another family in the neighborhood. She stated that her concern is safety and make sure that homes are not over occupied.

Town Manager Giles stated that the International Code currently requires a certain number of square feet for each person residing in the residence. We can determine the maximum occupancy and then proving that it is over occupied. In addition we can look at an ordinance deeming anything over 14 days means you are living in the residence and not just visiting.

**DEPARTMENTAL REPORTS:**

**Code:**

Town Manager Giles presented the new Code Enforcement Report.

Councilman Burg asked Administrative Assistant Diana Poole if the 9 citations issued in the 2<sup>nd</sup> District during March were to the same person or 9 different residents.

Miss Poole stated that they were issued to different residents for snow removal, especially along Kirkwood Highway and School Routes.

Town Manager Giles stated that the Council will probably receive several phone calls from residents where they shovel the sidewalks and the plow clears the streets and they have to shovel again.

Mayor Norkavage thanked the Code Enforcement Office for notifying of new businesses.



Town Manager Giles stated that this was included with the report because she had requested to be notified when new businesses opened up.

**Finance:**

Mr. Giles asked the Finance Director to update the Mayor and Council regarding the potential bond issue.

Mr. Schulcz stated that we have received the forms that need to be filled out, they have the VandeMark and Lynch analysis and have everything broken down by district for the Stormwater Management and the engineers have given us the new numbers for the street improvements and the numbers will need to be put into the FDA's requested format.

Town Manager Giles stated that once these things have been done then the Council will have a few decisions to make.

Councilman Novak requested to know if 224 & 226 Tamarack have gone to settlement yet.

Miss Poole stated that they have not appeared on the tax transfer yet however a request for fees owed has come in so settlement should occur soon or has recently occurred.

Town Manager Giles stated that Mr. Dominick Paoli has purchased the Julian Property off Old DuPont Road for 1.5 million and that we should be seeing the income from this transfer soon.

**Public Safety:**

Chief McLaren presented the public safety report. He also provided each council member with a notice that they will be using to place on vehicles with out of state license plates and will monitor the vehicles for 60 days before issuing a ticket. The fine for these is steep but it will hopefully help.

Councilman Novak thanked the Chief for the efforts regarding this matter and reminded him of an occurrence on Tamarack Avenue.

Chief McLaren stated they will definitely continue to monitor this.

Councilman Burg asked how many cell phone violations were issued during January.

Chief McLaren stated that he does not believe that any were issued.

Councilman Burg asked how many times the police must respond before a property is deemed a nuisance property.

Chief McLaren stated that it depends whether they report the problem or if the police are called to deal with that property.

Councilman Burg stated that there are several properties on Northern Avenue which have become a nuisance and would like to know when this would be deemed a nuisance.

Chief McLaren stated that he would be happy to speak with Councilman Burg after the meeting regarding any properties in particular regarding this matter. He also stated that the 2010 yearend report will be available at March's Council Meeting.

#### **Public Works:**

Town Manager Giles reported that the snow has kept the department busy, a lot of money spent on salt and other things may be slower due to the back to back storms.

Councilman Novak and Burg commended the Public Works Department for the snow removal.

Councilwoman Personti asked if they are going to be working on Pot Holes any time soon.

Town Manager Giles state that they have the cold patch and will be looking for and filling the pot holes, in addition he would like to consider a patching machine during the budget process.

#### **Town Manager's Report:**

Town Manager Giles stated that he would need to ask the Council to go into a brief executive session to discuss some legal issues. In addition, he has met with the Fire Company and discussed the restaurant equipment that is still located in there and that they have agreed to allow the Town to take any equipment they would like out of the unit.

#### **PUBLIC COMMENT:**

None

## **ADJOURNMENT:**

**ACTION:** A motion was made by Mayor Norkavage to adjourn to executive session and to come back to the public when finished. The motion was seconded by Councilman Jaremchuk.

### **VOTE:**

7-0 All-in-Favor

Motion carried

**ACTION:** A motion was made by Mayor Norkavage authorize the Town Manager to sign the consent to settle form provided for by the Town's insurance company in connection with some pending litigations. The motion was seconded by Councilman Novak.

### **VOTE:**

7 -0 All-in-Favor

Motion carried

**ACTION:** A motion was made by Councilwoman Personti to Adjourn. The motion was seconded by Councilman Pasquale.

### **VOTE:**

7-0 All-in-Favor

Motion carried

**These minutes summarize agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tapes may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.**

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**DEBORAH A. NORKAVAGE**  
**MAYOR**

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**JOANN I. PERSONTI**  
**SECRETARY**